

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.1402 of 2007

Dated:05.02.2007

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Between:

Smt. T.Radha Bai and others

...Petitioners.

and

The Sub-Registrar, Siddipet, Medak District and others.

...Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.1402 of 2007

ORDER:

The petitioners entered into a development agreement, dated 23.11.2006, in respect of property bearing new house No.18-54 in Sy.No.1508 of Lingareddypalli Village, Hamlet of Siddipet Revenue Village and Mandal. It was presented to the 1st respondent for registration. The

1st respondent kept it pending, by assigning No.P/436 of 2006. When the reasons for keeping the document were insisted upon, the 1st respondent made an endorsement, dated 23.12.2006, indicating that on a scrutiny of series of documents, he found some discrepancy as to the identity of the property and that in the basic value register, land in Sy.No.1508 was classified as 'Government land', as per the letters issued by the Revenue Divisional Officer and the Mandal Revenue Officer of Siddipet, the 2nd and 3rd respondents herein. The action of the 1st respondent in not registering the document is challenged in this writ petition.

Sri V.Ravi Kiran Rao, learned counsel for the

petitioners, submits that the 1st respondent has undertaken almost an adjudication of title dispute, particularly when there was no rival claim. He contends that when the only provision that enabled the Government to prohibit registration in respect of certain properties, i.e. Section 22-A of the Registration Act (for short "the Act"), was struck down by the Hon'ble Supreme Court, there was absolutely no basis for the 1st respondent to refuse registration, on the basis of instructions said to have been issued by the RDO and the MRO. He further contends that none of the reasons, mentioned in the impugned proceedings, are referable to the exercise of power under the Indian Stamp Act or the Registration Act.

Learned Government Pleader for Revenue, on instructions, submits that the petitioners were unable to establish the identity of the property and when it has emerged that the property belongs to the Government, the 1st respondent has kept the registration pending. He contends that the petitioners can avail the remedy of appeal under the Act.

The petitioners traced the title to the property, from the year 1967 and pleaded that the property was in their continuous enjoyment for all these years. Having regard to the limited nature of controversy that arises in this case, it is not necessary to delve into the question of title *vis-à-vis* the property. The 1st respondent made a detailed endorsement, dated 23.12.2006. In the first paragraph, his doubt as to the correlation of the house number with the survey number was indicated. Even assuming that there existed any discrepancy, it is not for the 1st respondent to entertain, or adjudicate such disputes.

The main basis for the 1st respondent to keep the

document pending is evident from paragraph 2 of the endorsement. It reads as under:

“As per the Basic value Guide Lines Register Survey No.1508 was classified as Government Land vide the Revenue Divisional Officer, Siddipet letter No.2598/2004, dt.14.12.2004 and the Mandal Revenue Officer, Siddipet had in his letter No.B/949/2006, dt.22.01.2006 informed that the landing said survey number is Government land, the registration of which is prohibited. Therefore, registration of the pending document bearing No.436/2006 is refused.”

From this, it is clear that the instructions that are comparable to those that could have been issued under Section 22-A of the Act by the Government are said to have been issued by the RDO and the MRO of Siddipet. Basically, even when Section 22-A of the Act was in force, the RDO or the MRO were not conferred with any power to issue instructions, much less notification prohibiting registration of any identified properties. Further, Section 22-A of the Act itself has been struck down by the Hon'ble Supreme Court.

The question of the petitioners being required to avail the remedy of appeal before the District Registrar would have arisen, if only the rejection was on the basis of grounds referable to the Indian Stamp Act and the Registration Act. When no such grounds are pointed out and the reasons mentioned in the endorsement are not referable to the said enactments, the question of the petitioner being required to avail the remedy, does not arise.

For the foregoing reasons, the writ petition is allowed and the

1st respondent is directed to accept the document and

consider it for registration, if the corresponding registration fee and stamp duty are paid, without undertaking any enquiry into the identity of, or title to the property. There shall be no order as to costs.

Dt.05.02.2007
L.NARASIMHA REDDY, J

Note:Furnish C.C. in one week.
(B/o)
GJ

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